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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
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09/195,005 11/18/98 WILLING

B MO-4861-HE-1

EXAMINER

PM82/0831

PATENT DEPARTMENT
BAYER CORPORATION
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VALENZA, J

ART UNIT

PAPER NUMBER

3651

17

DATE MAILED:

08/31/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

NOTE ATTACHED IDS PAPER # 12

Joseph E. Valenza

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 18

Application Number: 09/195,005
Filing Date: November 18, 1998
Appellant(s): WILLING, BERND

MAILED

AUG 30 2001

GROUP 3600

Noland J. Cheung
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed August 17, 2001.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

Art Unit: ***

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

Appellant's brief presents arguments relating to the objection to the drawings under 37 CFR 1.83(a). This issue relates to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. See MPEP §§ 1002 and 1201.

(7) *Grouping of Claims*

The rejection of claims 1-3 and 6 stand or fall together because appellant's brief does include a statement that this grouping of claims stand or fall together.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

Art Unit: ***

No prior art is relied upon by the examiner in the rejection of the claims under appeal.

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3 and 6 are rejected under 35 U.S.C. 112, first paragraph for lacking an enabling disclosure. In order for the system to operate as claimed the following features need to be disclosed such that one can make and use:

- 1) Structurally, how the system knows when to operate switches 27, 37 to timely divert the selected rollers 8a, 8b of the selected wagon.
- 2) Structurally, how does switch 37, 37' know when there is an opening to supply a wagon into?
- 3) Structurally, how is the wagon inserted as claimed by claim 3 via pushing by the following wagon if the insertion guide has a high speed drive which would slam the inserted wagon into the back of the preceeding wagon as discussed in page 4 lines 24-30?
- 4) Structurally, what is the design of the load –dependent high speed drive on the insertion track discussed in page 4 lines 24-30 and required use in claims 1-3 and 6?

(11) Response to Argument

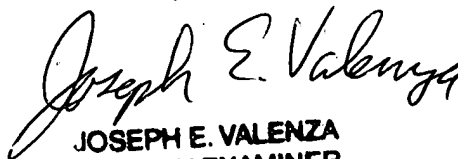
As appellant has not provided any of the missing design details to enable one to make and use the claimed device, no further comments are necessary. For the above reasons, it is believed that the rejections should be sustained.

Application/Control Number: 09/195,005

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Art Unit: ***

Respectfully submitted,



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August 29, 2001

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JEV 8/29/01

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